

III.

PARTIES

3. Plaintiff Stacy Bailey is an individual who is a citizen of the State of Texas and lives in Dallas, Texas with her wife.

4. Defendant Mansfield Independent School District (“Mansfield ISD”) is a school district organized under the laws of the State of Texas and may be served by serving its Superintendent, Dr. Jim Vaszauskas, and may be served at his place of employment, Mansfield ISD, 605 E. Broad Street, Mansfield, Texas 76063.

5. Defendant Dr. Jim Vaszauskas, Superintendent of Mansfield Independent School District and may be served at his place of employment, Mansfield ISD, 605 E. Broad Street, Mansfield, Texas 76063.

6. Defendant Dr. Kimberly Cantu, Associate Superintendent, Human Resources, is an individual who may be served at her place of employment, Mansfield ISD, 605 E. Broad Street, Mansfield, Texas 76063.

IV.

FACTS

7. Plaintiff is a teacher with Mansfield ISD.

8. Plaintiff has taught art at Charlotte Anderson Elementary School.

9. Defendant Mansfield ISD repeatedly gave Plaintiff exemplary performance evaluations.

10. For two of those years, Plaintiff was selected as Teacher of the Year at Charlotte Anderson Elementary School.

11. Plaintiff has a dedication to and love for her students.

12. Defendant Dr. Jim Vaszauskas (“Defendant Vaszauskas”) is the Superintendent of Mansfield ISD.

13. Defendant Dr. Kimberly Cantu (“Defendant Cantu”) is the Associate Superintendent, Human Resources of Mansfield ISD.

14. Plaintiff is lesbian/gay and was born that way.

15. For the last six years, Plaintiff was open about who she was at work but never used sexual or mature terms with students.

16. On or about August 23, 2018, while providing an introduction to a class, by showing “First Day of School” power point, Plaintiff shared photos of her parents, her family, her “future wife,” her best friends, and pictures of Plaintiff as a child in an effort to engage the students. This technique is widely used by other teachers. Plaintiff then showed the students slides providing class rules, rewards and expectations for the year.

17. Later that week, Plaintiff was informed by the Principal that a parent complained to the school board and superintendent about Plaintiff promoting the “homosexual agenda” by discussing her “future wife.” The Principal said, “I don’t think you did anything wrong but I don’t know what’s going to happen.”

18. On or about August 25, 2017, Defendant Cantu met with Plaintiff to discuss the parent complaint. Defendant Cantu said, “You can’t promote your lifestyle in the classroom.” Plaintiff said, “We plan to get married. When I have a wife, I should be able to say this is my wife without fear of harassment. When I state that, it is a fact about my life, not a political statement.” Defendant Cantu responded, “Well right now it kind of is (a political statement).”

19. When Plaintiff inquired about changing policy to keep this from happening again Defendant Cantu said, “You are right. It is time to get the ball rolling on that. You need to realize this is Mansfield and there could be some pushback.”

20. Dr. Cantu told Plaintiff she had done nothing wrong.

21. Later that night, Plaintiff sent an email to Defendant Mansfield ISD requesting it enact policy expressly prohibiting discrimination against lesbian and gays.

22. On September 8, 2017, Defendant Cantu took Plaintiff out of her class for a meeting. Defendant Cantu informed Plaintiff there was another complaint from a parent. This complaint was from the same parent who made the previous complaint.

23. Plaintiff had a wholistic approach to teaching about artists. Plaintiff taught about artist Jasper Johns and mentioned he served in the Korean War and he had a partner named Robert Rauchenberg, who was also an artist that she taught third grade students the prior year. Plaintiff also taught about other artists and their partners, including Frida Kahbo and Diego Rivera.

24. Defendant Cantu said the complaint was that Plaintiff had shown sexually inappropriate images to children. Plaintiff did no such thing. Plaintiff refused to sign the documentation. Plaintiff said “This is discrimination. This is wrong and it might even be illegal. I’m not signing it.” Plaintiff asked, “How long can I expect this to last?” Defendant Cantu said, “It could last two days, it could last two weeks.”

25. Since September 8, 2017, Plaintiff has not been allowed to perform her duties as a teacher.

26. Plaintiff discovered the parent who made the initial two complaints enlisted three other parents to complain about her.

27. On October 30, 2017 Defendant Mansfield ISD asked for Plaintiff’s resignation. Plaintiff refused.

28. On January 9, 2018, Defendant Cantu and Defendant Mansfield ISD's attorney Mike Leasor met with Plaintiff. Leasor said maybe Plaintiff had an agenda. Plaintiff indicated she was ready to go back to Charlotte Anderson Elementary.

29. In late January 2018, Defendant Mansfield ISD first indicated it may not renew Plaintiff's contract.

30. Parents and students informed Defendant Mansfield ISD that Plaintiff was a good teacher and should be brought back.

31. On March 27, 2018, Defendant Mansfield ISD issued a memo to the public and press about Plaintiff, contrary to its own practice and policy of not publicly discussing personnel issues. The memo contained multiple falsehoods. This memo generated widespread media attention and public outcry regarding Defendant Mansfield ISD mishandling of the situation.

32. By letter dated April 4, 2018, Plaintiff requested that she be allowed to return to Charlotte Anderson Elementary.

33. On April 24, 2018, Defendant Mansfield ISD voted to renew Plaintiff's contract.

34. By letter dated May 1, 2018, Plaintiff was informed by Defendant Vaszauskas that she would be transferred to a secondary school and, thus, will not be returning to Charlotte Anderson Elementary.

35. Defendants' actions have damaged Plaintiff's career and imposing a stigma on Plaintiff, making it more difficult to obtain future employment in other school districts, especially as an elementary school teacher.

36. Other school districts ask whether a teacher has previously been placed in administrative leave on their application for employment as a teacher and use this information to disqualify applicants.

37. Plaintiff and her spouse were married on March 16, 2018 and they have been together since May 2011.

38. Defendant Vaszauskas made all decisions regarding Plaintiff's administrative leave and subsequent actions.

V.

CAUSES OF ACTION

39. Defendants placed Plaintiff on administrative leave, improperly publicly discussed her employment status publicly, refused to return her to her previous position in an elementary school, transferred her to a secondary school and determined she was not appropriate to teach elementary students all because of her sexual orientation and status as a lesbian in violation of the 14th Amendment's Equal Protection Clause of the United States Constitution and, thus, in violation of 42 U.S.C. § 1983.

40. Defendants placed Plaintiff on administrative leave, improperly publicly discussed her employment status publicly, refused to return her to her previous position in an elementary school, transferred her to a secondary school and determined she was not appropriate to teach elementary students all because of her sexual orientation and status as a lesbian in violation of the Equal Protection Clause of the Texas Constitution, Article I, § 3.

41. Defendants placed Plaintiff on administrative leave, improperly publicly discussed her employment status publicly, refused to return her to her previous position in an elementary school, transferred her to a secondary school and determined she was not appropriate to teach elementary students all because of her sexual orientation and status as a lesbian in violation of the Texas Equal Rights Amendment, Article I, § 3a.

VI.

DAMAGES

42. As a result of Defendants' actions, Plaintiff has suffered in the past, and in all reasonable likelihood, will suffer in the future, damages including, lost earning capacity, mental anguish, emotional pain and suffering, lost employment benefits, inconvenience, loss of enjoyment of life, damage to professional reputation, and other damages.

43. Moreover, Defendants engaged its actions with malice, therefore, Plaintiff is entitled to punitive damages.

44. Plaintiff seeks a declaration that Defendants illegally discriminated against Plaintiff because of her sexual orientation.

45. Plaintiff also seeks reinstatement to her position at Charlotte Anderson Elementary.

46. Plaintiff seeks attorney fees pursuant to 42 U.S.C. § 1988(b).

VII.

JURY DEMAND

47. Plaintiff demands a jury trial.

VIII.

PRAYER

48. WHEREFORE, Plaintiff prays that the Defendants be duly cited to appear and answer herein, that upon a final trial of this cause, Plaintiff recover:

1. Judgment against Defendants, for Plaintiff's damages as set forth above;
2. Reinstatement to her position at Charlotte Anderson Elementary;
3. A declaration that Defendants illegally discriminated against Plaintiff because of her sexual orientation;

4. Attorney's fees;
5. Interest on said judgment at the legal rate from date of judgment;
6. Prejudgment interest as allowed by law;
7. Costs of Court; and
8. Such other and further relief to which Plaintiff may be entitled.

Respectfully submitted,

/s/ JASON C.N. SMITH
JASON C.N. SMITH
State Bar No. 00784999

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ATTORNEYS FOR PLAINTIFF

JS 44 (Rev. 06/17) - TXND (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS Stacy Bailey</p> <p>(b) County of Residence of First Listed Plaintiff <u>Dallas</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Jason C.N. Smith, Law Offices of Jason Smith 600 8th Avenue, Fort Worth, TX 76104 817-334-0880</p>	<p>DEFENDANTS Mansfield Independent School District, Dr. Jim Vaszauskas, and Dr. Kimberly Cantu</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;"><input type="checkbox"/> 4</td> <td style="width:10%;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) _____ 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 42 U.S.C. § 1983

Brief description of cause:
 Discrimination and retaliation against employee

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 250,000

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 5/8/18

SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____